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Attorneys for Plaintiff,
COREY CROUSE

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

COREY CROUSE,)	Case No.: 2:16-cv-1365
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	(Unlawful Debt Collection Practices)
)	
LOANME, INC.,)	
)	
Defendant.)	

COREY CROUSE (Plaintiff), by his attorneys, WESTGATE LAW, alleges the following against LOANME, INC. (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

2. Count II of the Plaintiff's Complaint is based on the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 *et seq.* (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this Court over Plaintiff's Complaint arises pursuant arises pursuant to 28 U.S.C. § 1331 as Plaintiff's claims arise under the laws of the United States, and this Court maintains supplemental jurisdiction over the state law claims alleged herein.

4. Defendant conducts business in the State of California thereby establishing personal jurisdiction.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b) because the acts and transactions alleged in this Complaint occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

6. Plaintiff is a natural person residing in Los Angeles, Los Angeles County, California.

7. Defendant is a business entity with a principal place of business in Anaheim, California.

8. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

9. Since approximately 2015, and specifically within four years prior to the filing of this action, Defendant contacted Plaintiff to collect money, property or their equivalent, due or owing or alleged to be due or owing.

10. Since approximately 2015, and specifically within four years prior to the filing of this action, Defendant constantly and continuously placed collection calls to Plaintiff at Plaintiff's cell phone number ending in 5106.

1 11. On numerous occasions, Defendant placed messages on Plaintiff's
2 voicemail.

3 12. The voicemail messages Plaintiff received were created using a pre-
4 recorded and/or artificial voice, thereby indicating the use of an automatic telephone
5 dialing system.

6 13. At all times relevant to this action, while conducting business in
7 California, Defendant has been subject to, and required to abide by, the laws of the
8 United States, which included the TCPA and its related regulations that are set forth
9 at 47 C.F.R. § 64.1200 ("TCPA Regulations"), as well as the opinions, regulations
10 and orders issued by the courts and the FCC implementing, interpreting and
11 enforcing the TCPA and the TCPA regulations.

12 14. At all times relevant to this action, Defendant owned, operated and or
13 controlled an "automatic telephone dialing system" as defined by TCPA 47 U.S.C.
14 § 227(a)(1) that originated, routed and/or terminated telecommunications.

15 15. Within four years prior to the filing of this action, Defendant called
16 Plaintiff at Plaintiff's cellular telephone using equipment which has the capacity to
17 store or produce telephone numbers to be called, using random or sequential number
18 generator and to dial such numbers, also known as an "automatic telephone dialing
19 system" as defined by TCPA 47 U.S.C. § 227(a)(1)(A) and (B).

20 16. Defendant never received Plaintiff's consent to call Plaintiff on Plaintiff's
21 cellular telephone using an "automatic telephone dialing system" or an "artificial or
22 prerecorded voice" as defined in 47 U.S.C. § 227 (a)(1).

23 17. Even assuming arguendo that Defendant did have consent to call Plaintiff
24 on Plaintiff's cellular telephone using an ATDS, that consent was subsequently
25 revoked by Plaintiff. On several occasions, Plaintiff revoked consent by answering

1 Defendant's calls and demanding that Defendant's calls cease. In response,
2 Defendant's representative stated that Defendant would continue to place calls to
3 Plaintiff once an hour unless Plaintiff's request was sent in writing.

4 18. Despite Plaintiff's request to cease, Defendant continued to place
5 collection calls to Plaintiff, including up to ten (10) calls in a single day.

6 19. At no time have Plaintiff and Defendant had an "established business
7 relationship" as defined by 47 U.S.C. § 227(a)(2).

8 20. Defendant is not a tax exempt nonprofit organization.

9 21. Defendant's violation of the TCPA was willful because Plaintiff requested
10 that Defendant cease calling Plaintiff on countless occasions.

11 **FIRST CAUSE OF ACTION**
12 **(Violations of the TCPA, 47 U.S.C. § 227)**

13 22. Plaintiff incorporates by reference all of the above paragraphs of this
14 Complaint as though fully stated herein.

15 23. Defendant violated the TCPA. Defendant's violations include, but are not
16 limited to the following

- 17 (a) Within four years prior to the filing of this action, on multiple
18 occasions, Defendant violated TCPA 47 U.S.C. § 227 (b)(1)(A)(iii)
19 which states in pertinent part, "It shall be unlawful for any person
20 within the United States . . . to make any call (other than a call made
21 for emergency purposes or made with the prior express consent of the
22 called party) using any automatic telephone dialing system or an
23 artificial or prerecorded voice — to any telephone number assigned to
24 a . . . cellular telephone service . . . or any service for which the called
25 party is charged for the call.

1 (b) Within four years prior to the filing of this action, on multiple
2 occasions, Defendant willfully and/or knowingly contacted Plaintiff at
3 Plaintiff's cellular telephone using an artificial prerecorded voice or an
4 automatic telephone dialing system and as such, Defendant knowing
5 and/or willfully violated the TCPA.

6 24. As a result of Defendant's violations of 47 U.S.C. § 227, Plaintiff is
7 entitled to an award of five hundred dollars (\$500.00) in statutory damages, for each
8 and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B). If the Court finds that
9 Defendant knowingly and/or willfully violated the TCPA, Plaintiff is entitled to an
10 award of one thousand five hundred dollars (\$1,500.00), for each and every violation
11 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

12 25. Plaintiff is also entitled to seek injunctive relief prohibiting such conduct
13 in the future.

14 **SECOND CAUSE OF ACTION**
15 **(Violations of the Rosenthal Fair Debt Collection Practices Act,**
16 **Cal. Civ. Code §1788)**

17 26. Plaintiff repeats and realleges all of the allegations in Count I of
18 Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.

19 27. Defendant violated the RFDCPA based on the following:

- 20 a. Defendant violated §1788.11(d) of the RFDCPA by causing a
21 telephone to ring repeatedly or continuously to annoy the person
22 called;
23 b. Defendant violated §1788.11(e) of the RFDCPA by communicating,
24 by telephone or in person, with the debtor with such frequency as to be
25 unreasonable and to constitute an harassment to the debtor under the
circumstances;

- 1 c. Defendant violated §1788.17 of the RFDCPA by continuously failing
2 to comply with the statutory regulations contained within the FDCPA,
3 15 U.S.C. § 1692.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully requests that judgment be entered
6 against Defendant for the following:

- 7 (a) An injunction prohibiting Defendant from contacting Plaintiff on
8 Plaintiff's cellular telephone using an automated dialing system
9 pursuant to 47 U.S.C. § 227(b)(3)(A); and
10 (b) As a result of Defendant's violations of 47 U.S.C. § 227(b)(1), Plaintiff
11 is entitled to and requests five hundred dollars (\$500.00) in statutory
12 damages, for each and every violation, pursuant to 47 U.S.C. §
13 227(b)(3)(B); and
14 (c) As a result of Defendant's willful and/or knowing violations of 47
15 U.S.C. § 227(b)(1), Plaintiff is entitled to and requests treble damages,
16 as provided by statute, up to one thousand five hundred dollars
17 (\$1,500.00), for each and every violation pursuant to 47 U.S.C. §
18 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C); and
19 (d) Statutory damages of \$1000.00 pursuant to the Rosenthal Fair Debt
20 Collection Practices Act, Cal. Civ. Code §1788.30(b),
21 (e) Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair
22 Debt Collection Practices Act, Cal. Civ Code § 1788.30(c), and
23 (f) Awarding Plaintiff any pre-judgment and post-judgment interest as
24 may be allowed under the law; and
25 (g) For such other and further relief as the Court may deem just and proper.

1
2 **DEMAND FOR JURY TRIAL**

3 Please take notice that Plaintiff demands a trial by jury in this action.
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6 Date: February 26, 2016

RESPECTFULLY SUBMITTED,

7 By: /s/ Matthew A. Rosenthal
8 Matthew A. Rosenthal
9 Attorney for Plaintiff,
10 COREY CROUSE
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